

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Annual Assessment of the Status of
Competition in the Market for the
Delivery of Video Programming

MB Docket No. 06-189

COMMENTS OF VILLAGE OF SKOKIE

These Comments are filed by the Village of Skokie in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"), the National League of Cities ("NLC"), the National Association of Counties ("NACo"), the United States Conference of Mayors ("USCM"), and other national municipal organizations. The Village of Skokie encourages competition in the video programming marketplace and in fact has negotiated two cable franchise agreements with providers of video programming services. The local franchising process ensures that all residents share in the many benefits that increased competition brings to Skokie.

The Village filed Comments in the franchising proceeding, MB Docket No. 05-311, the Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992. Because this Notice of Inquiry raises many of the same issues that were addressed by the Village's earlier Comments, we are attaching a copy of those Comments for inclusion in this proceeding.

I. Wireline Video Competition in Skokie

The Village of Skokie is a municipality with a population of 63,965 (2004 estimate). We currently receive video service from RCN and Comcast. Both providers are franchised by the Village. The Comcast franchise expires January 25, 2014. The RCN franchise expires March 16, 2013.

II. Effects of Video Competition in Skokie

As a result of video competition in our community, we have seen the following:

- Upgrade of cable system plant, higher, more reliable quality
- Choice among providers
- Better programming choices
- Attractive price and programming packages
- Advanced service offerings
- Higher consumer satisfaction
- The establishment of a fiber optic communication network that connects all School, Library, Park District and Village buildings.
- The provision of a local public and educational access studio with state-of-the-art equipment for use by the community.

III. Regulatory, Environmental, and Financial Effects on Competition

The local cable franchising process functions well in the Village of Skokie. It has been in place in the Village of Skokie since 1982. The process ensures that local cable operators are allowed access to the rights-of-way (ROW) in a fair and equitable manner, that other users of the rights-of-way are not unduly inconvenienced, and that uses of the rights-of-way, including maintenance and upgrade of facilities, are undertaken in accordance with local requirements. Local cable franchising also ensures that our community's specific needs are met and that residents are protected.

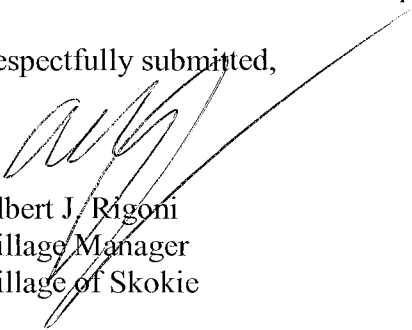
The entrance of new video competitors to the marketplace without a franchise can create problems for the community. These include:

- New video programming service providers refusing to provide universal service.
- New providers upgrading multiple dwelling units only when long-term exclusive contracts are signed.
- New competitor's reluctance to follow Illinois "level-playing field" statutes.
- Crowded ROW producing undesired number of facilities in Village parkways, and overburdening already crowded utility poles.
- Lack of attention to specific community needs.

Conclusion

The local franchising process functions well in the Village of Skokie. It ensures that our community's specific needs are met and that local customers are protected. All efforts to increase competition in the video programming marketplace are welcome. The local franchising process should not be used as an excuse for the failure of new video service providers to enter into the marketplace.

Respectfully submitted,



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November 29, 2006
Attachment

C: Skokie Village Board
Skokie Cable Television Commission
NATOA

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COPY

**Comments of the Village of Skokie
Skokie, Illinois**

These Comments are filed by the Village of Skokie in support of the comments filed by the National Association of Telecommunications Officers and Advisors ("NATOA"). The Village of Skokie firmly believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. The Village welcomes competitive providers of video services that provide service on a universal basis to the entire community on a "level-playing" field with other video service providers. The Village has never refused to negotiate with a competitive provider of video services and in fact actively sought out and successfully negotiated with a second cable system operator. In support of the franchising process, the Village wishes to provide the Commission with facts regarding video franchising in the Village of Skokie.

Community Information

The Village of Skokie is a municipality with a population of 63,965 (2004 estimate) over 10.2 square miles. The franchised cable providers are Comcast Cable and RCN. The community has negotiated cable franchises since 1982.

Current Franchise

The Village's current franchise with Comcast Cable began on January 25, 1999 and expires on January 25, 2014. The current franchise with RCN began on March 16, 1998 and expires on March 16, 2013.

Franchise Fees

The franchises require the cable operator to pay a 5% franchise fee. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act. The definition of the cable gross revenues in Village franchises follows:

Cable Gross Revenues means all amounts received by Company, or any entity affiliated with Company, in whatever form and from all sources, which are earned directly or indirectly, from the operation of the Cable System within Municipality. Cable Gross Revenues shall include, but not be limited to, revenues from cable subscribers (including, but not limited to, those for basic cable services; additional 3 tiers; premium services; pay per view; program guides; forfeited deposits; installation, disconnection or service call fees; fees for the provision, sale, rental or lease of converters, remote controls, additional outlets and other customer premises equipment; fees for Cable System Internet access, game channels, or cable modem service, if available, and amounts received from subscribers for franchise fees), revenues from the use of leased access channels, advertising revenues (national, regional or local); leased access rentals, commissions, per inquiry fees and all other monies or consideration received from home shopping services, and entities providing programming used on the Cable System. Cable Gross Revenues shall be computed at the level where first received from an entity not affiliated with Company and shall not be net of operating expenses, commissions or any other expenditures. Advertising revenues, home shopping network revenues or other revenues whose source cannot be specifically identified with a particular subscriber shall be allocated to Municipality in proportion to the number of subscribers in Municipality compared to the number of subscribers from whom the revenues are attributable.

PEG Requirements

The Village requires the cable operator to provide capacity for public, educational, and/or governmental ("PEG") access channels on the cable system.

Comcast PEG Channels:

Comcast provides six (6) channels for educational and governmental access and one channel for public access. The Village may request up to three (3) additional PEG access channels.

Comcast Capital Facilities – Skokie PEG Studio

Comcast provides a staffed PEG access studio with related equipment. Comcast maintains and replaces the equipment when necessary. Studio use and facilities' training is provided at no charge to the PEG Users. Local access producers throughout Skokie and the suburbs of Chicago as well as schools and community groups use the studio to produce informational programming. Several groups have regular shows. The studio provides the community with **equal access to**

state-of-the art video equipment including non-linear digital editing bays and cameras.

Comcast Capital Grants for PEG:

Comcast made three, fifty thousand (\$50,000) payments to the Village for Capital Facilities to support PEG access. Comcast also provides annual Capital Facilities Grants of one dollar (\$1.00) per subscriber per year, and up to an amount equal to the amount provided for PEG support by the Village, not exceeding one percent (1%) of Comcast's cable gross revenues in the Village.

RCN PEG Channels:

RCN provides ten (10) channels for educational and governmental use and one channel for local access.

RCN Capital Facilities – Skokie Community I-NET

RCN provides a fiber-optic institutional community network (I-NET) connecting all Village, School (eight Districts, including High School and a community college), Library and Park District buildings. The franchise provides for connection to over 50 buildings throughout Skokie. The network was constructed and continues to be maintained and operated by RCN on a 24/7 basis, 365 days a year. Each building connected to the I-NET has six dedicated fibers.

The I-NET is an integral part of the Village's educational and local governmental communication network. Applications and uses for the Skokie Community I-NET continue to grow. To illustrate the importance of the I-NET to the Village the following uses are detailed.

Skokie Community I-NET Uses

The I-NET created a Wide Area Data Network for the Village. It permitted high-speed connections to the switches in Police Department, Fire Stations and Public Works from the Village Hall. It connected via fiber the Village to the locations of electronic informational community kiosks at the local shopping center, the performing arts center, the public library and the local community college. It also provides redundancy for the Village's voice network in the event of a failure of the physical telephone plant. The Village reserved the right to purchase up to 24 additional fibers around the fiber ring from RCN.

Seven of the School Districts, some private schools, the Library and Park District are using the I-NET to combine internet traffic and transmit it to a State of Illinois sponsored ISP. The internet access cost savings to each organization is substantial as leasing monthly multiple T1 line access is no longer necessary. It has provided every school in Skokie, including private institutions, with **equal access to the internet** on a cost-efficient basis.

In addition, security uses of the I-NET fiber are being put into place by many of the organizations. These uses include security cameras and remote monitoring

devices inside schools and in parking and playground areas. Many of the organizations have also connected voice network application and alarm systems to the I-NET.

RCN Capital Grants

In 2000, RCN provided a one-time grant of \$250,000 to the Village in the form of an I-NET and PEG access channel grant.

RCN remits monthly Capital Facilities grants equal to one percent (1%) of Cable Gross Revenues in the Village.

Emergency Alert System

Both cable systems maintain an Emergency Alert System (EAS) for use in transmitting Emergency Act Notifications (EAN) and Emergency Act Terminations (EAT) in local and statewide situations as may be designated to be an emergency by the Local Primary (LP), the State Primary (SP) and/or the State Emergency Operations Center (SEOC).

Comcast Emergency Alert System

The Comcast EAS also permits the Village to override the audio portion of all channels on the cable system serving the municipality with an emergency message. The override has been used by the Skokie Police Department during a municipal emergency several times a year.

RCN Emergency Alert System

RCN has installed an emergency alert system (EAS) that permits the Skokie Police Department to place a crawl on the bottom of the screen. The crawl is reserved for emergency information only.

Emergency alert systems provide an important avenue of communication with our residents in the event of an emergency. During local snow emergencies, water main breaks or widespread telephone outages the alert system has been used to supplement other Village communication avenues. The EAS is an integral part of the Village's emergency communications plan.

Customer Service Requirements

The franchise contains customer service obligations to ensure that the cable operator is treating the residents in accordance with federal standards.

Comcast and RCN Customer Service Provisions

Both companies maintain local access lines that are available to customers 24 hours a day, seven days a week, 365 days a year. Trained representatives are available to respond directly to customer telephone inquiries 24 hours a day, seven days a week.

Under normal operating conditions, telephone answer time by a customer representative shall not exceed 30 seconds when the connection is made.

Transfer time shall not exceed 30 seconds. These standards shall be met no less than 90% of the time, measured on a quarterly basis. The customer will receive a busy signal less than 3% of the time.

Service to the Community – No Redlining

Both franchises require that the cable operator provide service to the all areas of the community. The franchises provide that the cable systems make service physically available to **all** residential subscribers at any location within Skokie. Additionally, no subscriber is required to pay line extension charges for a standard installation with a drop of 150' or less.

Access to Service- Universal Service

The companies cannot discriminate on the availability or rates, on the basis origin, sex, disability, age, marital status, location of drops, or status with regard to public assistance, income level or other demographics.

New Developments

The companies must install their system (excluding only drops to individual units) in all new subdivisions and developments on or by the date on which electric or telephone facilities are installed.

Upgrade, Rebuild Language

In order to ensure that the residents have access to current telecommunications technologies, the franchise contains upgrade requirements.

If the company is the sole provider of cable services in the Village, then its system and services shall be regularly upgraded with the most state-of-the-art technology, in terms of both the physical system and cable services being offered. If there is more than one entity providing cable services in the Village, then the company's physical system and cable services being offered shall comply with the most state-of-the-art technology at the time construction of the system begins.

Insurance, Bonding, Security Fund

In addition to standard insurance and construction bond requirements the franchises contain a security fund.

Security Fund

Both companies maintain an unconditional and irrevocable letter of credit issued by a bank having its principal office in Chicago, Illinois, for One Hundred Thousand Dollars (\$100,000) as security for the faithful performance of the provisions of the franchise.

Access to the Public Rights of Way

The cable franchise grants the cable operator access to the public rights of way and compatible easements for providing cable television service. Apart from the

franchise, the cable provider is required to obtain a permit from the appropriate municipal office before it may access the public rights of way.

Removal of Obsolete Facilities/Cooperation

When either of the companies opens a trench, accesses a conduit, or is working on aerial locations, they are required to remove all unusable and inactive system facilities (excluding those held for future use).

Underground Facilities

All cable, wires and other equipment must be placed underground wherever existing utilities are underground. If the Village, in the future requires that utilities in all or any portion of municipality place their lines underground, then the companies, at its expense, must place its existing and its future cable, wires, or other equipment in the area underground without charge or expense to the Village.

Temporary Relocation

Upon 10-business days notice, the companies are required to temporarily raise or lower its wires or other equipment upon the request by the Village.

Pavement Cut Coordination/Additional Fees

The companies must coordinate their construction program and all other work in the public ways with the Village. The companies cannot cut any paved public ways within ninety-six (96) months after such public right-of-way has been resurfaced without Village approval.

GIS Mapping

The companies provide a Geographical Information System (GIS) layer. This layer is kept current and updated annually.

Discontinue and Removal of the Systems

Upon the revocation, termination, or expiration of the franchises both companies are required to discontinue the provision of services and all rights to use the public ways cease. The companies, at the direction of Village, are required to remove their cable system, including all supporting structures, poles, transmission and distribution portions of the systems from the public ways within six (6) months of the revocation, termination, or expiration.

Remedies – Local resolution of disputes

The Village has placed remedies into the franchise. The remedies for non-compliance are assessed only after a “notice to cure” has been provided. This provides the cable provider with adequate time to correct the problem prior to the awarding of damages. It spares both sides the delay and costs associated with stop work orders and court proceedings and permits disputes and concerns to be resolved locally.

Liquidated Damages -Construction Delays

The dollar amounts are \$250 per calendar day for days 1-90; \$500 per calendar day for days 91-180 and \$1,000 per calendar day thereafter.

Liquidated Damages -Customer Service

First noncompliance with a given standard -\$750; second noncompliance with a given standard within four consecutive calendar quarters -\$1,500; subsequent noncompliance with a given standard within six consecutive calendar quarters - \$3,000.

Inspections, Reports, Audits

Upon request, the companies provide (a) all documents which the company sends to the FCC or Illinois Commerce Commission, (b) all records to be maintained under § 76 of the FCC regulations (47 CFR §76) or successor sections, and (c) all pleadings submitted in any lawsuit regarding the validity of statutes or regulations (d) all pleadings submitted in any lawsuit with program suppliers regarding programming provided in Municipality, and (e) all pleadings from judicial proceedings involving disputes with other cities, townships or villages in Illinois.

Books and Records

The Village reserves the right to review books and records, during normal business hours to monitor compliance with the franchise. The companies provide the Village with the FCC annual cumulative signal leakage report, the twice-yearly FCC signal quality proof of performance reports and copies of any technical reports filed with the FCC. In addition, the companies provide the Village with at least quarterly reports relating to customer service provisions.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government and the cable operator. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. The provisions in the franchise agreement function as contractual obligations upon both parties. The franchises reserve the right to change and or amend sections of the franchise to comply with changes in local, state or federal regulations.

The franchises are negotiated by as contracts; however, the process provides the cable operator additional due process rights, and consequent additional obligations on the local government. The rights include notice provisions, opportunity to cure and an appeal process before the Village Board.

Competitive Cable Systems – Illinois Overbuild Act of 1997

The Village is committed to the provision of competitive cable television services to its residents under “level-playing” field provisions and to this end has

- Sought out and granted a competitive franchise to RCN, a cable overbuilder, in 2000 and that provider is providing service in the Village today and;
- has not denied any video services provider the opportunity to serve in the community.

The Village conducted franchise negotiations with cable overbuilder RCN with the understanding that the Village would set up negotiations the following year, with incumbent cable provider Comcast, under “level-playing” field provisions. The franchise negotiations were cordial and progressed in a professional manner. The negotiations with the overbuilder RCN took longer because the Village and RCN needed to work on a mutually agreeable build-schedule, coordinating Village ROW projects with the build and quality assurance needs prior to finalizing the franchise. **Both RCN and Comcast were willing to agree to proposed capital facilities and PEG support provisions and utilized the Village of Skokie’s drafted franchise agreement as a basis for negotiations.**

The overbuilder RCN agreed to a build out of the **entire community in 24 months**. Service to the first homes began 9 months after the signing of the franchise. Both cable providers provide service to all areas of the Village without discrimination with regard to the location in the Village, type of residential unit or perceived ability to pay.

Conclusions

The Village of Skokie actively sought out a competitive provider of Cable Service and is pleased to have two providers servicing the entire Village. The Village welcomes further competition but only under a “level-playing” field as defined by the **Illinois Overbuild Act of 1997** and only to a provider willing to service the **entire** community.

The local cable franchising process functions well in the Village of Skokie. Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in accordance with local requirements. Local cable franchising also ensures that our local community’s specific needs are met and that local customers are protected.

The Village does not oppose the establishment of a maximum timeframe for considering an application of a competitive provider. Indeed, expediting the process brings competitive service to the community quicker.

Local franchises provide a means for local government to appropriately oversee the operations of cable service providers in the public interest and to ensure compliance with applicable laws.

Finally, local franchises allow each community to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs.

The Village of Skokie respectfully requests that the Commission reaffirm local government's authority over video services franchising and not to take action that might impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,



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